

FILED

June 29, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8006

ADM10-8049

**ORDER ESTABLISHING PUBLIC COMMENT
PERIOD REGARDING PROPOSED AMENDMENTS TO THE
RULES GOVERNING TRANSCRIPT PREPARATION**

The Rules of Civil Appellate Procedure and the Rules of Criminal Procedure govern the preparation of transcripts ordered for an appeal. *See* Minn. R. Civ. App. P. 110.02; Minn. R. Crim. P. 28.02, subd. 9. When ordered for an appeal, the transcript is filed with the court administrator in an electronic form, *see* Minn. R. Civ. App. P. 110.02, subd. 4; Minn. R. Crim. P. 28.02, subd. 9. In both civil and criminal appeals, the rules allow a party to request a paper copy of the transcript “in lieu of an electronic transcript” when a transcript is ordered for an appeal. Minn. R. Civ. App. P. 110.02, subd. 2(b); *see* Minn. R. Crim. P. 28.02, subd. 9. Other rules govern transcript use in proceedings, but do not distinguish between electronic and paper formats for transcripts. *See, e.g.*, Minn. R. Crim. P. 11.10, subd. 2 (describing transcript requests); Minn. Gen. R. Prac. 611(c) (explaining transcript requirements for housing court matters); Minn. Gen. R. Prac. 707 (describing transcription procedures for certain criminal proceedings).

The Judicial Council, the administrative policy-making authority for the Minnesota Judicial Branch, has approved amendments effective as of October 1, 2021 to Council Policy No. 221, which establishes the per-page transcript rate for the original and copies of transcripts. The Council also approved a motion to eliminate paper copies of transcripts,

thus effectively requiring copies that are ordered from a court reporter to be provided in an electronic format.

To implement the Judicial Council's decision, the rules that allow a party to request a paper copy of a transcript when the transcript is ordered for an appeal must be amended. The proposed amendments to the Rules of Civil Appellate Procedure and the Rules of Criminal Procedure that authorize delivery of a paper copy of a transcript are shown below. The court will consider whether to adopt the proposed amendments in the form shown below after considering public comments regarding these proposed amendments.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that any person or organization that wants to provide written comments in support of or opposition to the proposed amendments to Rule 110.02 of the Rules of Civil Appellate Procedure or Rule 28.02, subdivision 9 of the Rules of Criminal Procedure shall file one copy of those comments with the Clerk of the Appellate Courts, using the appellate courts' electronic filing system if required to do so. *See* Minn. R. Civ. App. P. 125.01(a)(1). All comments shall be filed so as to be received by the Clerk on or before August 13, 2021.

Dated: June 29, 2021

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea
Chief Justice

PROPOSED AMENDMENTS TO THE RULES OF CIVIL APPELLATE PROCEDURE

[Note: the proposed amendments show deletions as indicated by a line drawn through the words, and additions as indicated by a line drawn under the words.]

Rule 110. The Record on Appeal

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110.02. The Transcript of Proceedings; Duty of Appellant to Order; Notice to Respondent if Partial Transcript is Ordered; Duty of Reporter; Form of Transcript

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Subd. 2. Transcript Certificates. (a) If any part of the proceedings is to be transcribed by a court reporter, a certificate as to transcript signed by the designating counsel and by the court reporter shall be filed with the clerk of the appellate courts, with a copy to the trial court and all counsel of record within 10 days of the date the transcript was ordered. The certificate shall contain the date on which the transcript was requested; the estimated number of pages; the estimated completion date not to exceed 60 days; a statement that satisfactory financial arrangements have been made for the transcription; and the court reporter's address and telephone number.

~~(b) If, within 10 days after the filing of a transcript certificate required by subdivision 2(a) of this rule, any party makes a written request to the designating counsel that a paper transcript be provided to that party in lieu of an electronic transcript, the appellant or designating attorney or party shall file with the clerk of the appellate courts an amended transcript certificate confirming that satisfactory financial arrangements have been made for the preparation of the transcript and any timely requested paper copy or copies. The amended transcript certificate shall not extend the estimated completion date.~~

—(e) Upon filing of the transcript with the trial court administrator and delivery to counsel of record, the reporter shall file with the clerk of the appellate courts a certificate of filing and delivery. The certificate shall identify the transcript(s) delivered; specify the dates of filing of the transcript with the trial court administrator and delivery to counsel; and shall indicate the method of delivery. The certificate shall also contain the court reporter's address and telephone number.

~~(d)~~ (c) The reporter's certificates required by sections (a) and ~~(e)~~ of this subdivision shall be filed electronically with the clerk of appellate courts using the appellate courts' e-filing and e-service system and shall be served on all attorneys and unrepresented parties. The reporter may, but need not, use that system to serve copies of these certificates on attorneys registered for use of the system, and need not provide separate proof of service for certificates served electronically.

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Subd. 4. Transcript Requirements. The transcript shall be formatted for 8½ by 11 inch or 8½ by 10½ inch paper with double spacing between each line of text and shall contain a table of

contents. To the extent possible, the transcript of a trial or other single court proceeding shall be consecutively paginated, regardless of the number of volumes. The name of each witness shall appear at the top of each page containing that person's testimony. A question and its answer may be contained in a single paragraph. Compressed formats allowing more than one page of transcription to appear on a single page are not permitted for filed transcripts or for service on any party unless the party has consented to a compressed format.

In all appeals from the trial court, the court reporter shall file the transcript with the trial court administrator in an electronic format acceptable to the trial court administrator. The court reporter shall promptly transmit ~~a paper copy of the transcript to the attorney for each party to the appeal separately represented who has timely requested a paper copy in lieu of an electronic copy.~~ For all other parties, the court reporter shall promptly transmit an electronic copy of the transcript to the attorney for each party to the appeal separately represented. ~~For civil appeals other than from the district court, a paper transcript may be substituted for an electronic transcript if an electronic transcript is not available.~~

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AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

[Note: the proposed amendments show deletions as indicated by a line drawn through the words, and additions as indicated by a line drawn under the words.]

Rule 28.02. Appeal by Defendant

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Subd. 9. Transcripts and Transmission of the Transcript and Record.

(a) Transcripts of Proceedings. To the extent applicable, the Minnesota Rules of Civil Appellate Procedure govern preparation of the transcript of the proceedings and the transmission of the transcript and record to the Court of Appeals, except that the appellant must order the transcript, ~~and any requested paper copies,~~ within 30 days after filing of the notice of appeal unless the time is extended by the appellate court for good cause. ~~Any other party may request a paper copy of the transcript as provided in Minnesota Rule of Civil Appellate Procedure 110.02, subd. 2(b), within 10 days of the filing of either the transcript request or the court reporter's acknowledgement and acceptance of the transcript request, whichever is later.~~ The transcript must be filed with the court administrator and an electronic copy transmitted promptly to the attorney for each party.

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